

AN ACT

relating to the removal of a guardian of an incapacitated person
ordered by a court.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 761, Texas Probate Code, is amended by
adding Subsection (a-1) to read as follows:

(a-1) The court clerk shall issue notice of an order
rendered by the court removing a guardian under Subsection (a)(1),
(2), (3), (4), (6), (7), or (8) of this section. The notice must:

(1) state the names of the ward and the removed
guardian;

(2) state the date the court signed the order of
removal;

(3) contain the following statement printed in
12-point bold font:

"If you have been removed from serving as guardian under
Section 761(a)(6) or (7), Texas Probate Code, you have the right to
contest the order of removal by filing an application with the court
for a hearing under Section 762, Texas Probate Code, to determine
whether you should be reinstated as guardian. The application must
be filed not later than the 30th day after the date the court signed
the order of removal.";

(4) contain as an attachment a copy of the order of
removal; and

(5) be personally served on the removed guardian not later than the seventh day after the date the court signed the order of removal.

SECTION 2. Subsections (a), (c), and (d), Section 762, Texas Probate Code, are amended to read as follows:

(a) Not later than the 30th [~~10th~~] day after the date the court signs the order of removal, a guardian [~~personal representative~~] who is removed under Section 761(a)(6) [~~Subsection (a)(6)~~] or (7) [~~Section 761~~] of this code may file an application with the court for a hearing to determine whether the guardian [~~personal representative~~] should be reinstated.

(c) The court shall hold a hearing on an application for reinstatement under this section as soon as practicable after the application is filed, but not later than the 60th day after the date the court signed the order of removal. If, at the conclusion of the [a] hearing [~~under this section~~], the court is satisfied by a preponderance of the evidence that the applicant did not engage in the conduct that directly led to the applicant's removal, the court shall set aside an order appointing a successor guardian [~~representative~~], if any, and shall enter an order reinstating the applicant as guardian [~~personal representative~~] of the ward or estate.

(d) If the court sets aside the appointment of a successor guardian [~~representative~~] under this section, the court may require the successor guardian [~~representative~~] to prepare and file, under oath, an accounting of the estate and to detail the disposition the successor has made of the property of the estate.

S.B. No. 481

1 SECTION 3. The changes in law made by this Act to Sections
2 761 and 762, Texas Probate Code, apply only to a removal of a
3 guardian ordered by a court on or after the effective date of this
4 Act. A removal of a guardian ordered by a court before the
5 effective date of this Act is governed by the law in effect on the
6 date the order was rendered, and the former law is continued in
7 effect for that purpose.

8 SECTION 4. This Act takes effect September 1, 2011._____

David Dewhurst
President of the Senate

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 481 passed the Senate on
March 24, 2011, by the following vote: Yeas 31, Nays 0._____

Letsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 481 passed the House on
May 23, 2011, by the following vote: Yeas 142, Nays 0, one
present not voting._____

Robert Harney
Chief Clerk of the House

Approved:

17 JUN '11

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4pm O'CLOCK

JUN 17 2011

Boyd R. Davis
Secretary of State